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May 6, 2022

Sent via Electronic Mail

The Honorable Mark Takano
House Committee on Veterans' Affairs
420 Cannon House Office Building
Washington, DC 20515

The Honorable Mike Bost
House Committee on Veterans' Affairs
1211 Longworth House Office Building
Washington, DC 20515

Dear Chair Takano and Ranking Member Bost:

In 2015, the United States Supreme Court recognized the constitutional right of same-sex couples to marry as one of the fundamental liberties protected by the Fourteenth Amendment. Unfortunately, Congress has left in statute discriminatory language that fails to acknowledge same-sex spouses in law. Seven years after *Obergefell v. Hodges*,¹ a key regulation continues to reflect a reality that is out of step with the Constitution, the principles of dignity and equality – and public sentiment. Public support for marriage equality grows. We write to urge passage of the Supporting All Veteran Families Act, H.R. 6849, in support of the dignity and equality of all Americans, regardless of whom they love, by eliminating language in statute that discriminates against same-sex married couples.

In another landmark civil rights case, *United States v. Windsor*,² the Supreme Court struck down language from Section 3 of the Defense of Marriage Act as unconstitutional.³ The language, which defined “spouse” as “only . . . a person of the opposite sex,” applied to all federal agencies before the Court found it invalid.⁴ After the ruling, other federal agencies, such as the Internal Revenue Service⁵ and the Department of Defense,⁶ rewrote their regulations to define marriage in gender-neutral terms, but the Department of Veterans’ Affairs (V.A.) could not unilaterally do the same. Congress codified the definition of a spouse for purposes of V.A. benefits to be “. . . a person of the opposite sex.” Today, this out-of-date, discriminatory, and unconstitutional definition remains unchanged.⁷

¹ 576 U.S. 644 (2015).

² 570 U.S. 744 (2013).

³ *Id.* at 769-70.

⁴ *Id.* at 752.

⁵ Rev. Rul. 2013-17.

⁶ Eyder Peralta, *Pentagon Details Plan To Extend Benefits To Same-Sex Spouses*, NPR, Aug. 14, 2013, <https://www.npr.org/sections/thetwo-way/2013/08/14/211978987/pentagon-details-plan-to-extend-benefits-to-same-sex-spouses>.

⁷ 38 U.S.C. § 101(3).

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According to its public statements, the V.A. treats married same-sex couples and opposite-sex couples equally. But this does not undo the damage of leaving in place discriminatory language that risks causing confusion and unnecessary harm to an estimated more than a million LGBTQ+ veterans in the United States. Changing this statute will affirm the dignity and constitutionally protected rights of all individuals serving their country in the armed services of the United States military.

Obergefell represents a monumental victory for LGBTQ+ rights, although discrimination based on sexual orientation persists. While public opinion in support of protecting LGBTQ+ rights has steadily increased over the past two decades,⁸ in the past four years alone, there has been a dramatic increase in anti-LGBTQ+ legislation. In 2018, 41 anti-LGBTQ+ bills were introduced in state legislatures across the country.⁹ In 2021, more than 250 anti-LGBTQ+ bills were introduced, including anti-transgender athlete bills, religious refusal bills, and bills that would forbid discussion of LGBTQ+ people, sexuality, or gender in classrooms.¹⁰ Twenty-four of these bills were enacted.¹¹ Nearly 240 anti-LGBTQ+ bills have been introduced in just the first three months of 2022.¹² The growing divide between the American people and those in power is concerning, and there must be guardrails in place to protect the rights of veterans and their families.

The Supporting All Veteran Families Act will explicitly codify gender-neutral language in the V.A. statute so as to include same-sex couples. Its passage will bring assurance and comfort to LGBTQ+ veterans and their spouses that their rights and benefits are written in the black-and-white text that governs the V.A.'s benefits administrators. Further, it would provide dignity to the same-sex couples of America, who deserve to have our laws clearly reflect their equal standing with their opposite-sex counterparts. Regardless of sexual orientation, veterans signed up to put their lives on the line and serve their country and our laws should make clear that they are entitled to the benefits that come with their commitment to service.

⁸ PRRI, *Americans' Support for Key LGBTQ Rights Continues to Tick Upward*, Mar. 17, 2022, <https://www.prr.org/research/americans-support-for-key-lgbtq-rights-continues-to-tick-upward/> (54% of Americans supported gay marriage in 2014 compared to 68% in 2021); Jacob Poushter & Nicholas Kent, *The Global Divide on Homosexuality Persists*, Pew Research Center, Jun. 25, 2020, <https://www.pewresearch.org/global/2020/06/25/global-divide-on-homosexuality-persists/> (51% of Americans were accepting of homosexuality in 2002 compared to 72% in 2019).

⁹ Southern Poverty Law Center, *Anti-LGBTQ*, <https://www.splcenter.org/fighting-hate/extremist-files/ideology/anti-lgbtq>.

¹⁰ Wyatt Ronan, *2021 Slated to Become Worst Year for LGBTQ State Legislative Attacks as Unprecedented Number of States Poised to Enact Record-Shattering Number of Anti-LGBTQ Measures Into Law*, Human Rights Campaign, Apr. 21, 2021, <https://www.hrc.org/press-releases/2021-slated-to-become-worst-year-for-lgbtq-state-legislative-attacks>.

¹¹ Southern Poverty Law Center, *Anti-LGBTQ*, <https://www.splcenter.org/fighting-hate/extremist-files/ideology/anti-lgbtq>.

¹² Matt Levietes & Elliott Ramos, *Nearly 240 anti-LGBTQ bills filed in 2022 so far, most of them targeting trans people*, NBC News, Mar. 20, 2022, <https://www.nbcnews.com/nbc-out/out-politics-and-policy/nearly-240-anti-lgbtq-bills-filed-2022-far-targeting-trans-people-rcna20418>.

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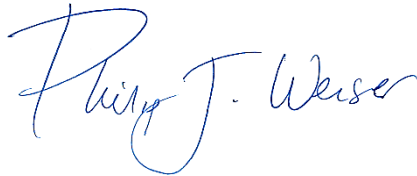
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We urge you to prioritize and pass the Supporting All Veteran Families Act on behalf of over a million LGBTQ+ veterans in the country who have earned V.A. benefits and should not be denied them on the basis of sexual orientation.

Sincerely,



Bob Ferguson
Washington State Attorney General



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Colorado Attorney General



Kathleen Jennings
Delaware Attorney General



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Hawaii Attorney General



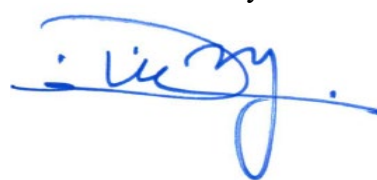
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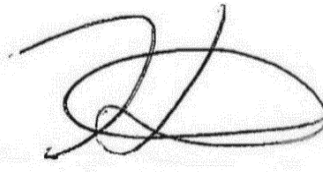
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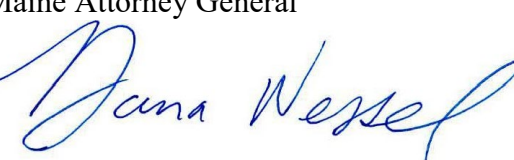
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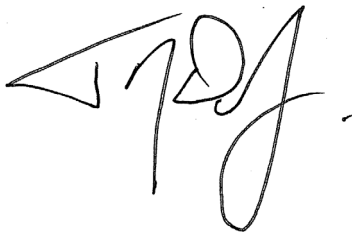
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